SUPREME COURT OF THE UNITED STATES.

No. 65.—October Term, 1925.

The United States of America, Petitioner, *vs.* New York & Cuba Mail Steamship Company.	On a Writ of Certiorari to the United States Circuit Court of Appeals for the Second Circuit.

[December 14, 1925.]

Mr. Justice Sanford delivered the opinion of the Court.

The questions involved in this case relate to the construction and constitutionality of the Act of December 26, 1920, c. 4, 41 Stat. 1082, entitled "An Act to provide for the treatment in hospital of diseased alien seamen." It provides: "That alien seamen found on arrival in ports of the United States to be afflicted with any of the disabilities or diseases mentioned in section 35 of" the Alien Immigration Act of 1917[1]—including any loathsome or dangerous contagious disease—"shall be placed in a hospital designated by the immigration official in charge at the port of arrival and treated, all expenses connected therewith . . . to be borne by the owner . . . or master of the vessel, and not to be deducted from the seamen's wages"; and that where a cure cannot be effected within a reasonable time "the return of the alien seamen shall be enforced on or at the expense of the vessel on which they came, upon such conditions as the Commissioner General of Immigration, with the approval of the Secretary of Labor, shall prescribe, to insure that the aliens shall be properly cared for and protected, and that the spread of contagion shall be guarded against."

The Steamship Company, a Maine corporation, is the owner of a merchant vessel of American registry. On a voyage from New York to the West Indies and return, this vessel carried a seaman who was a citizen of Chile. On returning to New York he was found by

[1]Act of February 5, 1917, c. 29, 39 Stat. 874.

the immigration officials to be afflicted with a venereal disease, and on the order of the Commissioner of Immigration was placed in the Public Health Service hospital on Ellis Island for treatment. He was later discharged from the hospital as cured, and admitted into the United States. The Steamship Company having refused to pay the hospital expenses, the United States brought suit against it in the Federal District Court for the amount of such expenses. Judgment was recovered, which was reversed by the Circuit Court of Appeals, on the ground that the Act applied only to seamen on foreign vessels. 297 Fed. 159. The case is here on writ of certiorari. 268 U. S. —.

This decision is in conflict with the earlier decisions in *Franco* v. *Shipping Corporation*, (D. C.) 272 Fed. 542, and *Castner* v. *Hamilton*, (D. C.) 275 Fed. 203, in which the Act was applied to aliens brought in as seamen on American vessels.

The question of construction presented is whether the term "alien seamen", as used in the Act, means seamen who are aliens, as the Government contends, or seamen on foreign vessels, as the Steamship Company contends: that is, whether in applying the Act the test is the citizenship of the seaman or the nationality of the vessel.

We think the term "alien seamen" is not to be construed as meaning seamen on foreign vessels. The general principle that an alien while a seaman on an American vessel is regarded as being an American seaman in such sense that he is under the protection and subject to the laws of the United States, *In re Ross*, 140 U. S. 453, 479, has no application to the question whether aliens employed on American vessels are included within the terms of a special statute dealing solely and specifically with "alien seamen," as such. And if the rule attributing to a seaman the nationality of the vessel should be applied to this Act so as to give to the term "alien seamen" the meaning of "seamen on foreign vessels," it would result, under the terms of its last clause, that an American seaman employed on a foreign vessel who was afflicted with an incurable disease, on being brought into an American port could not be admitted into the United States, but would have to be returned; an anomalous result which, obviously, Congress did not intend.

It is clear that the term "alien seamen" as used in the Act means "seamen who are aliens." It describes, aptly and exactly, seamen

of alien nationality, dealing with them, as individuals, with reference to their personal citizenship; and it has no other significance either in common usage or in law. The Act does not qualify this term by any reference to the nationality of the vessels. Nor does it use the words "seamen on foreign vessels" or any equivalent phrase which would have been appropriate had it been intended to describe the seamen on such vessels.

This conclusion is emphasized when the Act is considered in the light of the Alien Immigration Act of 1917, and the legislative history showing the condition it was evidently the intention to correct. *United States* v. *Morrow*, 266 U. S. 531, 535. The Act of 1917, *inter alia*, dealt specifically with "alien seamen," using that term, as shown by its general definitions and various provisions, as meaning "aliens employed on *any vessel* arriving in the United States from a foreign port." It provided that, if not within any of the classes excluded by reason of disease or otherwise, they might be admitted into the United States as other aliens, but, if not so admitted, prohibited them from landing, except for certain temporary purposes, under regulations prescribed by the Secretary of Labor; and it required the owner or master of "any vessel" coming from a foreign port to furnish a list of all its alien seamen and not to pay off or discharge them unless duly admitted or permitted to land. (§§ 1, 2, 32-34, 36.) And by § 35—which was specifically referred to in the Act of 1920—it was provided that if "any vessel" carrying passengers, on arrival from a foreign port, had on board employed thereon, any alien afflicted with any enumerated disability or disease which had existed when he shipped on the vessel and might then have been detected by competent medical examination, the owner or master of the vessel should pay a fine, and, pending its departure, the alien should be treated in hospital at the expense of the vessel.

There was, however, no provision expressly authorizing the hospital expenses incurred in the treatment of a diseased alien seaman to be charged to the vessel when it carried freight or the disease could not have been detected at the time that he shipped on the vessel.

In this situation the Department of Labor, in 1919, prepared the draft of the bill which later, with minor changes, became the Act of 1920. In a letter transmitting this draft to the Chairman of the House Committee on Immigration and Naturalization, the Secretary stated that the Department was very anxious to have it

enacted into law in order to fix definitely "the responsibility of steamship lines and vessels for the expenses which arise from the frequent necessity of placing in hospitals alien seamen who, upon arrival at our ports, are found to be afflicted with various diseases, often of a loathsome or dangerous contagious character"; the existing law not being clear upon this matter. The Committee, in reporting the bill,[2] set forth this letter from the Secretary, and said: "The bill simply provides that the care and treatment in hospital of diseased alien seamen be placed on the same basis as the care and treatment in hospital of diseased aliens, namely, at the expense of the ship or steamship company bringing the diseased alien seamen into this country. At present there is a difference of opinion as to who shall pay the expenses of taking care of these alien seamen who come here and require medical or surgical treatment."

No substantial doubt is cast upon the purpose of the Act by the incidental statement of the Chairman of the Committee in the course of debate, that the bill applied only to foreign ships, especially since, in the same debate, he described it as referring to "sick alien seamen," and stated that it perfected a provision already "partly in the immigration laws" making the owners of vessels responsible for their medical treatment.[3]

In the list of this history, as well as from the face of the Act itself, it is clear that the words "alien seamen" were used in the same sense as in the Act of 1917, with which it is *in pari materia*, that is, as meaning aliens employed as seamen on any vessel arriving in the United States; and that it was intended to extend the provisions of § 35 of that Act by providing that the hospital expenses incurred in treating any such diseased alien should be borne in all cases by the vessel bringing him in, whether carrying passengers or freight, and without reference to the time when the disease might have been detected. And it has been so construed and applied by the Department of Labor.

The Steamship Company, while conceding that the Act as thus construed is constitutional as applied to foreign vessels, contends that as applied to American vessels it is repugnant to the due process clause of the Fifth Amendment in that "it imposes liability

[2]Ho. Rep. No. 173, 66th Cong., 1st Sess.

[3]60 Cong. Rec., 66th Cong., 3d Sess., Pt. 1, pp. 600, 601.

without causation or causal connection." This contention is without merit. The power of Congress to forbid aliens and classes of aliens from coming within the borders of the United States is unquestionable. *The Chinese Exclusion Case,* 130 U. S. 581, 606; *Wong Wing* v. *United States,* 163 U. S. 228, 237; *Turner* v. *Williams,* 194 U. S. 279, 289; *Oceanic Navigation Co.* v. *Stranahan,* 214 U. S. 320, 336. Congress may exercise this power by legislation aimed at the vessels bringing in excluded aliens, as by penalizing a vessel bringing in alien immigrants afflicted with diseases which might have been detected at the time of foreign embarkation, *Oceanic Navigation Co.* v. *Stranahan, supra,* p. 332, or by requiring a vessel bringing in aliens found to be within an excluded class, to bear the expense of maintaining them while on land and of returning them, *United States* v. *Nord Deutscher Lloyd,* 223 U. S. 512, 517. There is no suggestion in any of these cases that this power is limited to foreign vessels. It may be exercised in reference to alien seamen as well as other aliens. And if they are found to be diseased when brought into an American port, the vessel, whether American or foreign, may lawfully be required to bear the expenses of their medical treatment.

The judgment of the District Court is affirmed, and that of the Circuit Court of Appeals

Reversed.

A true copy.

Test:

Clerk, Supreme Court, U. S.